



IN THE MATTER OF:

Complainant,

and

Respondent.

CHARGE NO: 1992SF0474
EEOC NO: 21B921528
ALS NO: 7133R

This matter is ready for a Recommended Order and Decision pursuant to the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.). On April 18, 2002, an Order was entered requiring the parties to inform the Commission concerning the status of Complainant's appeal in the Seventh Circuit Court of Appeals of an adverse jury verdict in a similar federal court action between the parties. The Order further provided that should neither party comply with the order, an Order would be entered recommending that the matter be dismissed with prejudice. On May 2, 2002, Respondent filed a status report indicating that on April 24, 2001, the Seventh Circuit Court of Appeals affirmed the jury verdict in favor of Respondent and asserting that this matter should be dismissed on grounds of *res judicata*. Complainant did not file a status report by the deadline set forth in the April 18, 2002 Order.

Respondent contends that this matter should be dismissed with prejudice since a federal court has previously rendered a final judgment on the merits of an identical claim pending before the Commission.

Findings of Fact

Based upon the record in this matter, I make the following findings of fact:

1. On March 10, 1992, Complainant filed a Charge of Discrimination alleging on his own behalf that he was the victim of unlawful retaliation for having supported his wife's discrimination claims against Respondent when Respondent relocated his office to a spot within Respondent's library. Complainant thereafter filed a timely Complaint based on his Charge of Discrimination.
2. On May 1, 1997, Complainant filed a motion to stay this proceeding in favor of a similar federal proceeding against Respondent. On October 21, 1997, Complainant's motion for stay was granted, and the parties were directed to file status reports with respect to the federal proceeding.
3. From March 10, 1998 to November 20, 2000, the parties filed status reports with respect to the federal court proceedings. During this time, the federal court proceeding went to a jury trial, and Complainant appealed to the Seventh Circuit Court of Appeals a jury verdict in favor of Respondent.
4. On February 16, 2001 and October 15, 2001, Orders were issued requiring the parties to inform the Commission of the status of the federal court appeal. Neither party filed a status report as required under these Orders.
5. On April 18, 2002 an Order was entered which required the parties to give a status of the federal court proceedings.
6. On May 2, 2002, Respondent filed a status report indicating that on April 24, 2001, the Seventh Circuit Court of Appeals had affirmed the jury's verdict in favor of Respondent. Complainant did not file a status report.

Conclusions of Law

1. Complainant is an "employee" as that term is defined under the Human Rights Act.

2. Respondent is an “employer” as that term is defined under the Human Rights Act and was subject to the provisions of the Human Rights Act.

3. The doctrine of *res judicata* bars re-litigation of a claim that a court of competent jurisdiction has decided on its merits in an earlier proceeding.

4. All requirements for application of *res judicata* to this matter are present since: (1) the parties to this action are the same as the parties to the federal action; (2) both cases arise out of the same set of facts; and (3) the jury verdict in the federal action was an adjudication upon the merits, which is now final.

Determination

Because a court of competent jurisdiction has previously rendered a final decision in favor of Respondent on the merits of Complainant’s retaliation claim against Respondent, this matter should be dismissed.

Discussion

In **Hauversburk and Prudential Home Mortgage Co.**, ___ Ill. HRC Rep. ___ (1994SF0022, July 16, 1998) the Commission explored the circumstances surrounding the proper application of the doctrine of *res judicata* to Commission proceedings. There, the Commission held that *res judicata* bars a subsequent action when the following three conditions have been met: (1) there is an identity of the parties or their privies; (2) there is an identity of the cause of action; and (3) there is a final judgment on the merits rendered by a court of competent jurisdiction. (See, also, **Rein v. David A. Noyes & Co.**, 172 Ill.2d 325, 665 N.E.2d 1199, 216 Ill.Dec. 642, 647 (1996).) The policy behind such a doctrine is the well-worn notion that litigation should have an end, and that no person should be unnecessarily harassed with a multiplicity of lawsuits. See, **Rein**, 665 N.E.2d at 1026, 216 Ill.Dec. at 648.

In reviewing the record, I find that all three of the conditions for applying *res judicata* have been met. Specifically, the Complainant and Respondent are the same

parties in the Title VII and Human Rights Act claims, and both actions arise out of Complainant's dispute with Respondent's decision to locate Complainant's office in Respondent's library after Complainant had supported his wife's discrimination claim against Respondent. Additionally, the jury's verdict in the federal action in favor of Respondent constitutes a final adjudication on the merits of Complainant's retaliation claim where Complainant did not prevail in his appeal to the Seventh Circuit Court of Appeals. As such, Respondent is entitled to a dismissal of this proceeding, and I would note that Complainant has not filed any pleading to dispute Respondent's contention that the doctrine of *res judicata* requires a dismissal of this case.

Recommendation

For all of the above reasons, I recommend that this case be dismissed with prejudice based upon the existence of a final order in federal court in favor of Respondent on the matter raised by the Complainant in this Complaint.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 22nd DAY OF MAY, 2002.